

(f) If the complaint of discrimination is resolved on the merits by a decision of the Secretary of the Army or his or her designee, the award of attorney fees and/or costs must also be made by the Secretary of the Army or his or her designee in accord with the procedures outlined in (e) above.

(g) All payment of attorney fees and/or costs will be made payable jointly to the complainant and the attorney of record.

§ 588.55 Informal no-fault settlement.

(a) Informal settlements of complaints may be reached though the Army need not admit fault, wrongdoing, or discrimination provided that the ROI indicates some merit to the allegation of wrongful action.

(b) The standard for informal settlement awards is stated in § 588.51.

(c) The Activity Commander, or his or her designee, in consultation with the EEO officer and the labor counselor, has authority to award attorney fees and/or costs as part of an informal settlement if agreement is reached between the parties and the amount to be awarded is less than \$5,000. If the parties do not reach agreement, or the amount is \$5,000 or more, the final award will be made by the Secretary of the Army or his or her designee.

Subpart F—Appeals and Civil Actions

§ 588.57 Appealing an Army decision.

(a) A complainant in an individual complaint of discrimination or a class agent in a class complaint may appeal to the EEOC Office of Review and Appeals, 2401 E Street, NW, WASH DC 20507, the Army decision—

(1) To reject or cancel the complaint in whole or in part.

(2) To refuse to reinstate the complaint for further processing.

(3) On the merits of the complaint, the issue of attorney fees and/or costs, or the remedial action.

(b) A claimant in a class complaint may appeal to the EEOC Office of Review and Appeals, 2401 E Street, NW, WASH DC 20507, the Army decision—

(1) To cancel or reject a claim for individual relief.

(2) On the merits of the claim for individual relief or the issue of attorney fees and/or costs.

(c) Except as provided in § 588.57(f) complainant in an individual complaint of discrimination may file a notice of appeal with the EEOC any time after receiving the Army Notice of Final Decision on his or her complaint but not later than 20 calendar days after receiving the decision. A notice of appeal will be deemed filed on the date it is postmarked or, without a postmark, on the date it is received by the EEOC. Any statement or brief to support the appeal must be sent to the EEOC and to EEOCCRA, ATTN: SFCR, WASH DC 20310-1813, within 30 calendar days after the date the notice of appeal was filed.

(d) On receiving the complainant's statement or brief, EEOCCRA will ask the activity to send management comments and copies of the case file. These comments must be coordinated between the activity EEO officer, labor counselor, and CPO, and must be received by EEOCCRA early enough for EEOCCRA to meet the EEOC suspense date. Comments will be prepared in a format that will permit forwarding to EEOC without editing or retyping.

(e) Except as in § 588.57(f) an agent or a claimant in a class complaint may file an appeal at any time after receiving a final Army decision, but not later than 15 calendar days after receiving the decision. An appeal will be deemed filed on the date it is postmarked or, without a postmark, on the date it is received by the EEOC.

(f) Usually, the time limits for filing a notice of appeal will not be extended by the EEOC. However, the EEOC, at its discretion, may extend the time limits and accept an appeal based on a written statement by the complainant. The statement must show that the complainant was not notified and not otherwise aware of the prescribed time limits, or that circumstances beyond his or her control prevented filing a notice of appeal or an appeal within the prescribed time limits.

(g) The EEOC Office of Review and Appeals reviews the complaint file and all relevant written representations made by the parties. The office may return the complaint to the Army for